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Refugee Reports

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PRESIDENT AUTHORIZES INCREASE IN REFUGEE ADMISSIONS FOR FY 91

Continuing a five-year trend of increasing annual refugee admissions, President Bush has authorized a worldwide admissions ceiling of 131,000 for FY 91. Of this ceiling, 121,000 admissions places have been allocated to the six geographical regions and will be eligible for federal funding. An additional 10,000 spots will be available for private-sector admissions.

The Soviet Union and Southeast Asia account for more than 100,000 of the admissions numbers, approximately 75,000 of whom are expected to migrate directly from two countries: the Soviet Union and Vietnam.

Africa has been allocated a regional ceiling of 4,900, the highest since passage of the Refugee Act of 1980. Other regional ceilings include Eastern Europe with 5,000, and the Near East and South Asia with 6,000.

Earlier in the year, when the Administration submitted its refugee admissions and assistance budget requests for FY 91, it estimated publicly funded admissions needs at 110,000 worldwide. Although the authorized ceiling for FY 91 is 11,000 higher than the original estimate (not including the unallocated private admissions numbers), the Administration did not request additional money for admissions.

The State Department requested $450.6 million for migration and refugee assistance (MRA) in FY 91--with $185.2 million for refugee admissions and $215.2 million for assistance overseas.

A Senate Appropriations Committee report on the Foreign Operations Appropriations Bill, which funds the State Department refugee programs, called the budget request for refugee admissions "inadequate". The Appropriations Committees in both the House and Senate have supported a $35 million increase in the MRA budget, primarily to provide additional assistance for Soviet Jews resettling in Israel and to fully fund the additional admissions numbers to the United States.

But Bush Administration officials indicated that they intended to admit 121,000 publicly funded refugees, including 50,000 Soviets, while keeping within the amount of the original FY 91 budget request.

"We believe that through cost-saving measures and

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Washington's pace of life quickened considerably as the 101st Congress neared its closing days. This issue tracks developments in and around Congress relating to refugees, including annual admissions consultations....1

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new approaches to financing transportation costs, funding appropriated at the President's original budget request level can finance the projected 121,000 admissions," Deputy Secretary of State Lawrence Eagleburger told the Senate Judiciary Committee on October 3. The primary element of the Administration's cost-savings plan is to arrange for the pre-payment of refugee transportation to the United States by either relatives or voluntary agencies.

Africa Ceiling Is Highest in a Decade

"Over four-and-a-half million persons in Africa fleeing conflict and violence have sought refuge in neighboring countries," said a report to Congress on FY 91 admissions submitted by the U.S. Coordinator for Refugee Affairs. Despite the heavy burdens this has created, "the generosity of African people and governments in granting refuge to neighbors in distress is noteworthy," the report said. "Nowhere in the world has the practice of first asylum been more universally followed."

African generosity has been tested hard in 1990, as refugee numbers swelled with an estimated 500,000 Liberians escaping a bloody civil war in their own country who fled into Cote d'Ivoire, Guinea, and Sierra Leone.

In setting an Africa regional ceiling of 4,900. the Bush Administration identified refugees from six nations as being of particular concern for FY 91: Angola, Ethiopia, Liberia, Mozambique, South Africa, Somalia, and Zaire. The list no longer includes Namibia, Lesotho, and Malawi. "Nationals of those countries have not applied to the U.S. Refugee Program in significant numbers in recent years," said the Coordinator's report. Liberia and Somalia are new additions to the list.

It is expected that Ethiopian refugees, as in previous years, will comprise the largest admissions numbers in the Africa program. Most will be processed out of refugee camps in Sudan, but some have sought asylum in other African countries or in Europe.

The next largest group, according to U.S. officials, will be refugees fleeing persecution in southern Africa, followed by refugees in East Africa.

The Immigration and Naturalization Service (INS) now maintains an office in Nairobi, Kenya, and Church World Service is working as a Joint Voluntary Agency (JVA) there to assist in case preparation.

InterAction, a membership association of U.S. private voluntary agencies involved in international humanitarian work, said the JVA presence in Nairobi "will strengthen the capacity of INS to carry out refugee processing...where a considerable backlog still exists." An InterAction statement on FY 91 refugee admissions had called for an Africa admissions level of 6,500. "We anticipate the movement of at least 1,500 refugees out of Nairobi, 3,000 Ethiopians from Sudan, and 2,000 refugees from southern Africa," the statement said.

The UN High Commissioner for Refugees (UNHCR) projected total needs for all African resettlement at 7,140, but did not suggest what the U.S. share should be.

East Asia Ceiling Combines First Asylum and ODP Numbers In FY 90, the United States resettled about 25,000 Indochinese refugees from first asylum camps in Southeast Asia and admitted another 26,800 Vietnamese refugees and Amerasians through the Orderly Departure Program (ODP). In FY 91, the State Department has combined first asylum and ODP refugee and Amerasian numbers into a single ceiling of 52,000.

Given what they have called "the unpredictability of first asylum needs," U.S. officials say the combined ceiling will enable them to shift numbers readily from first asylum to ODP, and vice versa, depending upon the needs.

The ODP program--which was established in 1979 to provide a safe, legal alternative to clandestine departure by boat--enjoyed its most successful year ever in FY 90. In addition to the 26,800 refugees and Amerasian immigrants, another 16,000 Vietnamese parolees and non-Amerasian immigrants entered the United States through the program, and more than 17,000 Vietnamese migrated to other countries.

FY 91, by all estimates, will be even bigger. Counting refugees, immigrants, and parolees, U.S. ODP numbers could come close to 60,000, ODP officials say. This will include at least 12,000 former reeducation camp prisoners and family members and an estimated 15,000 Amerasians and accompanying family members. Legislation passed in December 1987 created a special class of

U.S. REFUGEE ADMISSIONS IN FY 1990 AND FY 1991

	AUTHORIZED LEVELS-FY 90	ADJUSTED LEVELS	ESTIMATED ARRIVALS	AUTHORIZED LEVELS-FY 91
AFRICA	3,000	3,500	3,500	4,900
EAST ASIA[a]	51,500	51,800	51,800	52,000
EASTERN EUROPE	6,500	6,200	6,200	5,000
LATIN AMERICA AND THE CARIBBEAN	3,500	2,400	2,400	3,100
NEAR EAST AND SOUTH ASIA	6,500	5,000	5,000	6,000
SOVIET UNION	40,000	42,800[b]	42,800	50,000
SUBTOTAL	111,000		111,700	121,000[c]
Unfunded USSR (earmarked)	10,000	9,300	8,000	
Other Private Sector	4,000		3,100	10,000
TOTAL	**125,000**		**122,800**	**131,000**

a In FY 90, the authorized ceiling for East Asia was broken down into 25,000 for refugees from first asylum countries and 26,500 for persons from Vietnam entering under the Orderly Departure Program. The ODP level was later adjusted to 26,800. There was no such breakdown in the FY 91 authorization. The ODP includes Amerasian immigrants and their families who enter as immigrants under a special statutory provision but receive benefits as refugees.

b This number includes seven hundred initially unfunded numbers for USSR which were later funded and included in the adjusted level pursuant to the Armstrong Amendment to the Dire Emergency Supplemental Appropriations Act of 1990.

c The use of up to 11,000 of these admission numbers is contingent on the successful implementation of the Department of State's new pre-payment program and other cost savings.

Source: U.S. Coordinator for Refugee Affairs

Amerasian immigrants. They are admitted to the United States as immigrants, but "are included in the refugee admissions ceiling for consistency with the budgetary process," according to the Coordinator's report.

InterAction's recommmended figure for FY 91 ODP refugee admissions to the United States was 40,000, not counting Amerasians. About 36,000 of these numbers should be available for former reeducation detainees and family members, said the InterAction statement, and 4,000 refugee numbers should be used "for family reunification cases of special concern where immigration petitions are not current."

InterAction also recommended an admissions level of 14,500 Indochinese refugees from first asylum, including 5,500 spots for Vietnamese boat people, "to assure that the United States meets its obligations under the Comprehensive Plan of Action" (CPA), as well as 3,000 resettlement numbers for lowland Lao and 6,000 for highland Lao in Thailand.

In addition to Indochinese refugees, InterAction recommended that 1,500 resettlement numbers be available for Burmese, Chinese, and Tibetan refugees.

The State Department has designated only two nationalities in East Asia as being "of particular concern" to the United States: Vietnamese and Laotians. "Consideration of these nationalities for refugee admission is authorized without referral of specific cases to Washington," said the Coordinator's report. "Cambodians, Burmese, and Chinese cases are considered on a case-by-case basis, but only with specific authority from the Department of State and INS headquarters."

FY 91 marks the first year that Cambodians have not been on the U.S. list of designated nationalities. The United States has resettled nearly 150,000 Cambodian refugees since 1975, including about 2,000 in FY 90. But virtually all of the 12,300 Cambodians in Khao I Dang camp have been rejected for admission as refugees, and the other 300,000 Cambodian displaced persons encamped on the Thai border have not been allowed to seek refugee resettlement.

Sen. Alan K. Simpson (R-Wyo.) raised questions at the October 3 hearing about continuing obligations towards Southeast Asian refugees. "The war is over," he declared. "It ended in 1975."

He called for restoration of diplomatic relations with Vietnam, saying that would pave the way to "get honest with ODPs and Amerasian children who are no longer children and how many people are coming out and sneaking through those numbers and all the rest of it, all driven by 'Saigon cowboys' of years past."

Soviet Processing Shifts to Moscow Several senators at the October 3 hearing praised the success of the shift to direct processing of Soviet refugees out of Moscow and the closing of the Vienna-Rome pipeline.

On October 24, however, glitches in direct processing out of Moscow surfaced, as more than 200 evangelical Christians were stranded at the Sheremetyevo airport because their exit visas had been designated for Israel (a carryover from the old system when everyone flew first to Vienna, and most "dropped out" en route to Israel). But they no longer had entry permits for Israel stamped in their passports (see Refugee Reports, Vol. XI, No. 4).

Sen. Simpson criticized the growing trend toward in-country refugee processing. "It's very difficult to be a real refugee when you're in-country," he said, and called in-country processing a violation of the spirit of the Refugee Act.

In reference to the Lautenberg Amendment (which lowers the threshold test for refugee status for Soviet and certain Indochinese--see Refugee Reports, Vol. XI, No. 6), Simpson called "presumptions" of refugee status "a great mistake" that was "driven by special interests."

Eagleburger praised the "magnitude" of the effort of the American Jewish community to resettle up to 8,000 Soviet Jews through private funding, but said, we "recognize that it cannot easily be repeated in FY 91." He said that the Administration had therefore raised the funded level of Soviet refugee admissions by 10,000 for a total of 50,000.

InterAction called for admission of 40,000 Soviet Jews, 10,500 Evangelical Christians, 5,000 Armenians, and 3,000 Catholic and Orthodox Ukrainians.

Eastern Europe Ceiling Set at 5,000 With the emergence of democratic governments in Hungary, Poland, and Czechoslovakia, the

U.S. government discontinued the registration of refugee applicants from these three countries in FY 90. Albanians, Romanians, and Bulgarians are the "designated nationalities for FY 91," according to the U.S. Coordinator's report to Congress.

"Due to the slow pace of democratic reform and political uncertainty, Romanians and Bulgarians continue to leave their countries," the report said. "In Albania, popular uprisings resulted in thousands seeking refuge in embassies in Tirana."

An Eastern Europe admissions ceiling of 5,000, according to the report, will allow for the admission of the final group of Romanian Third-Country Processing (TCP) cases; Visas 93 cases (spouses and children of previously admitted refugees) from Poland and Romania; and processing of the three designated nationalities in first-asylum countries.

The United States admitted about 6,200 Eastern Europeans in FY 90. InterAction recommended that the FY 91 ceiling be increased to 6,500.

U.S. Refugee Policy in Latin America is Largely "Same Old Stuff" At the Senate hearing, Sen. Dennis DeConcini (D-Ariz.) cited State Department estimates of approximately two million refugees and displaced persons in Central America, and then pointed out that "only 3,100 refugee slots have been alloted to Latin America and the Caribbean for FY 1991." He added that 3,000 of those places are to be used for Cubans, "which leaves 100 slots for the rest of the entire area."

The U.S. Coordinator's report acknowledges that "non-Cuban refugee admissions will be negligible" in FY 91.

Of the 1,610 Latin American refugees who had entered in FY 90 through August 31, 1,065 were Cuban and 518 Nicaraguan. The FY 90 ceiling for Latin America was 2,400.

The FY 91 Presidential Determination includes new language that allows for in-country refugee processing of persons in Cuba "who are (1) in immediate danger of loss of life and for whom there appears to be no alternative to resettlement in the United States, or (2) are of compelling concern to the United States, such as former or present political prisoners, dissidents, or human rights and religious activists, or (3) were employed by the U.S. government for at least 1 year prior to the claim for refugee status; and their accompanying family members."

These expanded processing priorities were needed, according to the Coordinator's report, because the Cuban admissions program has "already largely addressed the needs of the population it was originally designed for--long-term political prisoners." The new language in the Presidential Determination "would allow the program to address the needs of a broader range of persons."

"We think this is finally a recognition of the kinds of people--human rights activists, dissidents, and religious minorities like Jehovah's Witnesses--who are at risk in Cuba and whom the United States should be willing to assist," said Dawn Calabia, associate director for refugees of the U.S. Catholic Conference/ Migration and Refugee Service. "We have been pushing for two years to get these changes," she told Refugee Reports.

Aside from the expanded priorities for Cuban refugees, "this is the same old stuff," John Fredriksson, Washington representative of the Lutheran Immigration and Refugee Service, told Refugee Reports. "I am disappointed the Administration continues to ignore the needs of other major refugee groups in the region."

InterAction supported the resettlement of 3,000 Cuban refugees in FY 91, but also recommended admission of 1,500 Salvadorans and Guatemalans, and 500 Haitians.

Calling U.S. refugee policy toward the region one of "benign neglect," InterAction urged the U.S. government to review its policy toward Central American and Caribbean refugees seeking first asylum in the United States. "In the context of the leadership role the United States plays in international efforts to preserve first asylum in Southeast Asia," said the InterAction statement, "the government's position to exclude Haitians and others from the Western Hemisphere seems inconsistent and unjust."

Near East/South Asia is Host to More Than Ten Million Refugees and Displaced Persons With more than five million Afghans, four million Palestinians, one million Iranians, 100,000 Iraqis and thousands of others, the Near East/South Asia boasts the dubious distinction of being the region with the

largest number of refugees and displaced persons in the world. Following the Iraqi invasion of Kuwait on August 2, hundreds of thousands more people were displaced, including 240,000 Kuwaiti refugees and at least 600,000 Arab and Asian expatriates who had been working in Iraq and Kuwait.

Afghan and Iranian refugees have tended to comprise the bulk of admissions from this region. Through August 31, a total of 4,567 refugees had been admitted from the Near East/South Asia region, including 3,199 Iranians and 1,314 Afghans. The original FY 90 ceiling of 6,500 was reduced to 5,000 during the year, due to what the U.S. Coordinator's report to Congress called a "dramatic decline in the number of new Iranian applications."

The FY 91 ceiling of 6,000 would be used to admit Afghan, Iranian, and Iraqi refugees, with perhaps small numbers of Syrians and Libyans. In Iran, the Coordinator's report said, "repression and persecution--of dissidents, religious minorities (Baha'is, Jews, Christians, and Zoroastrians), persons who played significant roles under the Shah, and individuals who refuse to adopt the doctrinaire Iranian Shi'a religious beliefs--once widespread under the Khomeini regime have not entirely disappeared." Afghan applications for family reunification have also increased.

InterAction had proposed an FY 91 ceiling of 10,000 in order to resettle 5,000 Afghans, 2,000 Iraqis, and 3,000 Iranians. Calling the 27,000 Iraqi Kurds in Turkey a "population of great concern," InterAction urged the United States to "respond to the needs of this vulnerable group by exploring a modest resettlement program for an initial 1,000 Iraqi Kurds in FY 91."

In its assessment of global resettlement needs, UNHCR identified a total of 8,200 refugees in the Middle East and Southwest Asia requiring resettlement in another country. UNHCR did not include Afghans in its figures, arguing that voluntary repatriation is the best durable solution for them, although it noted "an increasing incidence of attacks against Afghan refugees" in Pakistan and suggested that about 50 Afghans in Pakistan may need to be resettled "as an instrument of protection."

The UNHCR global assessment, which was published in August, identified 1,250 Iranians and 500 Iraqis in Pakistan who were also in need of resettlement, along with 1,340 Iranians and Iraqis in Turkey. "It is difficult to forecast resettlement requirements resulting from the current crisis in the Gulf," the UNHCR report said. "However, even at this early stage, information available points to the possible need for some 3,500 additional places for Iraqis and other refugees in the Middle East."

Recent Developments

[Editor's Note: Congress passed a landmark immigration bill (S.358) expanding the number of legal immigrants by about 40 percent. Up to 700,000 immigrants will be allowed to enter for each of the next three years, starting in 1992, to be revised downward thereafter. The number of visas based on skills more than doubles from 54,000 to 140,000 annually, yet more than half of the total visas are set aside for family unification.

The bill has many other important features, including language striking McCarthy-era grounds for exclusion--such as "sexual deviation" and membership in the Communist Party. It also shifts from Congress to the Administration responsibility for deciding whether persons with AIDS or the HIV virus should be barred from entering the country.

The Senate approved S. 358 by voice vote on October 27; the House passed it on Saturday, October 28 by a 264-to-118 margin.

The first two Recent Development *articles deal with parts of the bill that are likely to have the greatest direct impact on refugees or persons in refugee-like circumstances.]*

SENATE AND HOUSE REQUIRE SALVADORAN SAFE HAVEN, RECOMMEND TEMPORARY PROTECTION FOR LIBERIANS, LEBANESE, AND KUWAITIS

Salvadorans in the United States will be protected from deportation through June 1992 and be permitted to register for work authorization during that time if, as is expected, President Bush signs into law the comprehensive legal immigration bill (S.358).

Passage of legislation for Salvadoran safe haven followed a long and tortuous

path, with many many other nationalities being added--and subtracted--over the years.

In 1986, the House added Nicaraguans, along with Salvadorans, to its first major change in U.S. immigration law since 1965; but the safe haven provisions did not survive the conference committee that resolved differences between the House and Senate versions of the 1986 law.

In this session of Congress, a temporary safe haven bill for Salvadorans, Nicaraguans, and Chinese nationals had passed the House (see Refugee Reports, Vol. X, No. 11). That bill also established criteria for granting temporary protected status (TPS) to other nationalities based on ongoing armed conflicts, natural disasters, and other extraordinary conditions that make a safe return to the country unlikely. A companion bill for Salvadorans and Nicaraguans stalled in the Senate, however, and its chances looked remote.

Rather than see this legislation die yet again (it had been before Congress in some form or another for five years), Rep. Joe Moakley (D-Mass.), chairman of the Rules Committee, attached a safe haven provision to the legal immigration bill before it reached the House floor. Moakley's mark up included the generic safe haven language from the earlier House bill, but introduced a new mix of nationalities--Salvadorans, Kuwaitis, Lebanese, and Liberians.

When the legal immigration bill reached the House floor, Rep. Bill McCollum (R-Fla.) called this provision a "sweetheart deal for amnesty of illegals from these particular four countries" and introduced an amendment to strike it.

McCollum said, "We need to continue to let the Immigration Service use existing laws for political asylum to protect people who are here from those countries that are in trouble and make that work and not bind their hands behind their backs so that we have to keep everybody here."

Rep. William H. Gray III (D-Penna.) responded that "asylum is not always fairly administered" and cited Salvadorans as a nationality that has been unfairly treated by the asylum process. He then pointed out that the four nationalities in question are fleeing war, not "the strict standard of asylum which is 'well-founded fear of persecution.'" In the case of Liberians, Gray said, "we are talking about going back to a three-sided civil war. People are being butchered."

McCollum's amendment was defeated by a 131-to-285 vote.

On the Senate side, Sen. Dennis DeConcini's (D-Ariz.) companion bill for Salvadorans and Nicaraguans had passed the Judiciary Committee, but had moved no farther. However, the Senate legal immigration bill was amended back in July 1989 to grant temporary protection for students from the People's Republic of China.

The stage for the debate was set earlier in the month at the Senate's annual refugee consultation (see lead story) when Sen. DeConcini--not a member of the Committee--dropped in to ask Administration officials several questions about bias against Salvadorans in the asylum process. He cited a videotape of a State Department official conducting a training session for INS adjudicators in which the official joked about Salvadoran claims and advised his audience that it is "easier and more correct" to deny claims if they are not fully convinced of them.

DeConcini said, "I do not believe we should return these individuals to a country immersed in civil war in which we are actively involved. Moreover, I do not believe that government officials who are entrusted with the responsibility of reviewing asylum cases should minimize the plight of victims of persecution."

At that same hearing, Sen. Alan Simpson (R-Wyo.), called the Moakley amendment "a rerun of old laundry" and said, "I'll betcha it won't be in conference committee when it comes out."

Simpson said that the true refugees who fled to camps in Honduras had repatriated. Calling Moakley's amendment "an absolute anachronism," Simpson said, "If there ever was a danger to those in the U.S., it is over now. The true refugees are now safe; they're back home in El Salvador."

Conference Committee Reaches Unexpected Compromise The House-Senate conference needed to reconcile the Senate version, which included protections for certain PRC nationals, and the House version with its generic safe haven language as well as protection for four other nationalities, including Salvadorans.

Simpson continued to insist in confer-

ence that the danger in El Salvador is over. "To say that if these people are returned something will happen to them is just a fiction," he declared.

Moakley talked about the maimed children he had seen in El Salvador and the continuing bloodshed there.

Sen. Edward M. Kennedy, chairman of the Senate Immigration and Refugee Affairs Subcommittee, acknowledged Moakley's frustration at the five-year legislative impasse, but said, "I do not believe that this measure with that amendment on it would be able to go through the Senate."

Compromises on other parts of the immigration bill were afoot, and Simpson had won concessions on several issues. Simpson finally said he would consider the measure only for Salvadorans.

Moakley asked if he could find it in his heart to include Liberians, Lebanese, and Kuwaitis.

Simpson said that those nationalities would be able to avail themselves of protection through the authority of the Attorney General, according to the generic safe haven language in the House version of the bill, but that he was unwilling to tie the Attorney General's hands statutorily.

After DeConcini and Sen. Paul Simon (D-Ill.) offered to scale back the duration of protected status from three years to 18 months, Simpson said, "I'll look at it."

During a break, Congressional staff drafted the final compromise. The manager's draft report on which they finally agreed states, "The Conference substitute provides for the establishment of the House's temporary protected status program, but compels the Attorney General to provide such status only to Salvadorans and only for a period of 18 months. The Conferees strongly urge the Attorney General to consider favorably the granting of temporary protected status to nationals of Kuwait, Lebanon, and Liberia. The Conferees underscore that the mandatory conferral of such status on Salvadorans for 18 months shall not be interpreted as preventing the Attorney General, in his sole discretion, of providing additional periods of protection should circumstances in the future so warrant."

While the language of the manager's report tends to be expansive, the language of the bill itself is much more constrained.

It gives Salvadorans a six-month period to register for its benefits, which include work authorization. However, Salvadorans must renew their status every six months for a total of 18 months, or June 1992, whichever comes first. At the registration occurring closest to the termination date of protected status, the bill instructs the INS to "serve on the alien an order to show cause that establishes a date for deportation proceedings." If the Salvadoran fails to appear at these proceedings, the bill allows for an in absentia deportation order.

IMMIGRATION BILL WILL ENABLE NICARAGUAN, POLISH, HUNGARIAN, AND PANAMANIAN ASYLEES TO ADJUST TO PERMANENT RESIDENT STATUS

The legal immigration bill (S.358) includes an amendment introduced by Rep. William O. Lipinski (D.-Ill.) that would allow asylees to apply for permanent resident status without first having to prove that they still meet the refugee definition.

The amendment arose in response to a July 25 Immigration and Naturalization Service (INS) memorandum instructing its field offices about how to handle adjustment of status for asylees from countries whose political systems have undergone recent, dramatic change.

The memo from INS Deputy Commissioner Ricardo Inzunza established cut-off dates for adjustment of status of asylees from Hungary, Nicaragua, Panama, and Poland based on the INS's assessment of when governments changed in each of the four countries. The memo instructed INS offices to approve the adjustment of status applications for eligible asylees if their interviews were conducted before the new governments came into power. However, for those whose interviews were held after the cut-off dates, the applicants would have to satisfy the INS district directors that they still met the refugee definition. "If the asylee does not meet the definition of refugee, the adjustment should be denied," said the memo.

In cases that had been granted asylum by an INS district director, INS offices were instructed to include a letter of intent to terminate asylum status with the adjustment denial letter. For those who were granted asylum by an immigration judge, the INS was instructed to file a motion to terminate asylum. Those denied would either have to

voluntarily depart or face deportation or exclusion proceedings.

Private Agencies Protest INS Move Several private organizations criticized the INS memorandum. Arthur Helton, director of the Refugee Project of the Lawyers Committee for Human Rights, charged that the memo illegally violated the INS's recently finalized asylum regulations (see Refugee Reports, Vol. XI, No. 7) by shifting the burden of proof regarding changed country conditions from the INS to the applicant. In an October 5 letter to Inzunza, Helton wrote, "The regulations explicitly place the burden of proof on the government in all cases where it is contemplated that a change in country conditions might eliminate the eligibility for asylum or withholding."

Helton pointed out that people often become refugees "at the hands of longstanding repressive regimes," and that, usually, "vestiges of repression remain, because either the military or the secret police... remain entrenched in positions of power despite a change in the titular head of state." Under such circumstances, he maintained, the burden should be on the government to show that human rights abuses have not continued to occur after putative changes in government.

Rober DeVecchi, executive director of the International Rescue Committee, also criticized the INS cut-off dates. "Selecting the interview date for asylee adjustment of status," he said, "unfairly penalizes the asylees," since interview dates are set by the INS and do not reflect the intention of the applicants.

Immigration Bill Amended to Ease Adjustment of Status for Asylees Speaking in support of Lipinski's amendment, Rep. Dan Rostenkowski (D.-Ill.) specifically criticized the July 25 INS memorandum. He said, "It is incongruous that the otherwise welcome demise of a repressive regime in an asylee's home country should make it virtually impossible for the asylee to remain in the United States for failure to prove a continuing well-founded fear of persecution."

The amendment was opposed by Rep. Lamar Smith (R.-Tex.), who said that it "sets a dangerous precedent in refugee law" by removing the authority of the Attorney General "to rescind refugee status when the threat of persecution no longer exists."

Smith said, "Our priority should be those refugees who truly face persecution, not those who no longer do."

Lipinski said that his amendment would affect about 9,000 Nicaraguans, 1,000 Poles, 450 Hungarians, and 350 Panamanians.

The amendment to the House bill was accepted by the Senate and House conferees. They also raised from 5,000 to 10,000 the limit on the number of asylees who can adjust to permanent resident status annually.

FIVE CAMBODIAN DANCERS ON U.S. TOUR STAY BEHIND

What began as a national tour of cultural exchange and reconciliation ended in disarray and bitter recriminations, as a troupe of Cambodian classical dancers departed from New York's John F. Kennedy Airport on October 17, bound for Phnom Penh and leaving behind five young dancers who chose to stay in the United States.

Three dancers from the 36-member Cambodian Classical Dance Troupe defected in St. Paul, Minnesota on October 3, and another left the troupe in Lowell, Massachusetts on October 7. All four have sought political asylum. Two have relatives in the United States and one has a sister in Canada.

By the time the dance troupe had reached New York, the last leg of a month-long U.S. tour, newspapers throughout the country were replaying the angry charges and countercharges of deceit, threats, and betrayal brought by the tour organizers and their detractors.

"Those are four of our best dancers," Proeung Chhieng, the company's artistic director, told the Washington Post. Why do they want to break up our art? Our mission is humanism. It is not politics."

Funded by a grant from the National Endowment for the Arts and several private foundations and organized by the U.S.-Indo-China Reconciliation Project, the tour was the first to involve a cultural exchange group from Cambodia since the end of the Vietnam war in 1975.

Following four years under Khmer Rouge rule--which left more than one million Cambodians dead from execution, starvation, or overwork--Cambodia was invaded by Vietnamese

troops in 1979. Vietnam installed a friendly government in Phnom Penh, which has been opposed by a coalition of resistance forces, comprising two noncommunist factions and the Khmer Rouge.

Tour organizers accused one of these noncommunist groups, the Khmer People's National Liberation Front (KPNLF), of following the dancers around the country and pressuring them to defect. "An extremely aggressive campaign to embarrass Phnom Penh and, in fact, destroy the dance company has been underway," the tour's executive producer, Eileen Blumenthal, told the Post.

"I don't believe that at all," responded the KPNLF's ambassador to the United Nations, Lapresse Sieng. "They [the dancers] must be willing to be lured. Or they are fearful to go back." He denied that the KPNLF had intimidated anyone.

Stephen Morris, a Harvard University researcher who is writing a book on Cambodia, says it is the Phnom Penh government and its backers that should be held responsible for any threats or coercion. "The dancers have been subjected to intimidation from the regime, telling them that if they try to defect in the United States, their families will be punished," Morris told the Christian Science Monitor. He said that the American tour organizers "have themselves engaged in intimidation and deception..., lying to them about their rights in this country."

John McAuliff, director of the U.S.-Indochina Reconciliation Project, acknowledged to the New York Times that he had issued warnings to the dancers about the futility of defecting, and the risk of arrest and deportation back to Cambodia. But these warnings were based, he said, on conversations with State Department officials.

On October 11, the State Department issued a statement saying that the remaining 32 dancers in the troupe would be interviewed by the Immigration and Naturalization Service (INS) prior to their departure to determine if any more wished to defect.

Following the INS interviews--which McAuliff called "suspicious" and Proueng Chhieng said were frightening to the dancers, given their experiences with the Khmer Rouge--the troupe's star dancer, Yim Devi, decided to remain in the United States. Her lawyer, Martin Garbus, said that, unlike the other four dancers, Yim Devi was not seeking political asylum, but only wished to continue her studies.

RESCUE AT SEA IN PERIL FOR VIETNAMESE BOAT PEOPLE

When the General Jacinto rescued a boat in distress on the South China Sea in late August, the precarious ocean journey seemed nearly over for the 14 Vietnamese refugees on board. Under a ten-year-old international agreement arranged through the United Nations, the merchant ship had only to disembark the Vietnamese at its next scheduled port of call where they would be assured of prompt resettlement in a Western country.

But more than one month later, the refugees were still on the ship. The Norwegian-owned, Panamanian-registered vessel stopped in China, Hong Kong, Indonesia, and the Philippines and was turned away each time. On September 27, the Vietnamese finally were allowed to disembark in Papua New Guinea. Their next destination is uncertain.

It has become increasingly difficult to disembark Vietnamese boat people anywhere in Southeast Asia, and as a result, rescue efforts are dwindling and lives may be being lost, a UN High Commissioner for Refugees (UNHCR) official has told Refugee Reports. From July to September 1989, merchant and navy ships carried out 37 successful rescue operations, involving 2,356 Vietnamese boat people, according to UNHCR statistics. During the same period this year, only 7 boats and 179 people were rescued.

This drop in rescues cannot be fully attributed to a decline in Vietnamese boat flows from 1989 to 1990. Observers point out that while regional boat arrivals in the first seven months of 1990 are less than half what they were in the same period last year, most of that decline has been in the flow from Vietnam to Hong Kong. Because these boats have tended to hug the Chinese coastline all the way to Hong Kong, they are not considered "rescueable". Excluding Hong Kong, Vietnamese boat arrivals in Southeast Asia dropped from 26,389 in the first seven months of 1989 to 21,584 from January to July 1990, a decline of only about 18 percent.

The better explanation, the official said, is that asylum countries in Southeast

Asia--including Thailand, Malaysia, Indonesia, Hong Kong, and the Philippines--are delaying or denying disembarkation requests until they can be sure the boat people will be resettled or repatriated promptly. And because merchant ships are finding it harder to drop people off, the official suggested, they are increasingly reluctant to pick them up in the first place, not when delays can cost anywhere from $10,000 to $90,000 per day.

Since 1979, UNHCR has administered the Disembarkation Resettlement Offers (DISERO) program, designed to encourage merchant ships to rescue Vietnamese boat people by encouraging regional ports of call to permit prompt disembarkation. The motivation came in the form of resettlement commitments by the United States and five European countries, which guaranteed that any Vietnamese rescued at sea would be accorded automatic refugee status and resettled within 90 days. In the last ten years, a total of 68,400 boat people have been rescued and many have been resettled through DISERO and its companion, the Rescue at Sea Resettlement Offers (RASRO) program. But in the last year, both programs essentially have ceased to function.

The "Comprehensive Plan of Action" (CPA), which was endorsed by more than 50 countries in June 1989, severed the link between rescue at sea and automatic resettlement. The terms of the CPA require instead that boat people rescued at sea must undergo screening for refugee status just like their compatriots. Those who are screened in are virtually assured of resettlement; but those who are rejected, unless they are willing (or at least do not object) to go back to Vietnam, face an indefinite wait in detention camps. And while the Southeast Asian countries of asylum accept the principle of screening, they want solid assurances that they will not be left with a residual population of screened-out.

In order to restore disembarkation commitments, and rescue at sea efforts along with them, a CPA steering committee has been exploring several options. The first would be to re-establish the link between resettlement and rescue. A CPA steering committee report in October 1989 acknowledged that guaranteed, "fast-track" resettlement was "not compatible" with the CPA, which is designed to discourage clandestine departures from Vietnam.

Restoring the RASRO and DISERO programs could stimulate more boat departures, the UNHCR official said, and even inadvertently encourage boats to stay out on the water in search of rescue and resettlement. Furthermore, it would seem to be unfair to give automatic refugee status to someone rescued at sea while requiring other boat arrivals to undergo screening first. But "in the absence of an alternative arrangement and as an interim measure," the steering committee report said, "the need for [resettlement guarantees] has remained essential."

Another option identified by the CPA steering committee would be to establish a regional facility to house all rescue at sea cases following a determination of their status and destination. This alternative would give individual asylum countries the assurance of prompt onward travel, while avoiding any commitments to automatic resettlement. "Despite all efforts," the report noted, "no agreement has materialized on this issue, and at this stage it would appear that UNHCR is unable to take the matter any further."

The first-asylum countries in Southeast Asia have pushed hard to reach full consensus among all the CPA participants in support of involuntary repatriation of screened-out Vietnamese, but the United States and Vietnam continue to oppose any return involving force or coercion. To prevent a collapse of the CPA, the United States has agreed to support a UNHCR proposal for a new category of returnee: "those who do not object" to going back to Vietnam. An effort is now underway in Hong Kong to find out if such a category of people actually exists and if it is possible to get them home again safely.

At a July meeting of the ASEAN (Association of Southeast Asian Nations) foreign ministers in Jakarta, Secretary of State James Baker also pledged support for "a new best-efforts commitment to resettle or return all asylum seekers by the end of 1992."

In the meantime, the UNHCR official said, the rescue effort must be revitalized with new commitments from asylum countries, the maritime industry, and the international donor community. About 6,000 people were rescued in 1989, and the UNHCR bill to cover shipowners claims and special operations

came to $600,000, or roughly $100 to save a life.

A Vietnamese community group, the Boat People/S.O.S. Committee, has donated $35,000 and was pivotal in securing a grant of an additional $90,000 from the French government. The U.S. government recently pledged $500,000 to anti-piracy programs in Southeast Asia, of which at least $100,000 will be available for UNHCR rescue-at-sea programs. But even with the decline in rescues, according to UNHCR, funds for 1990 and 1991 are running short and new contributions are needed.

CANADIAN ASYLUM RATES AT 75 PERCENT, GOVERNMENT SEEKS TO STREAMLINE PROCESS

Since the U.S. Immigration and Naturalization Service (INS) issued final asylum regulations that cite "recent developments in the methods used to aide in the adjudication of asylum cases in other countries, such as Canada," there has been renewed interest in the Canadian model for determining asylum claims.

In September, a delegation of U.S. nongovernmental organizations, led by Arthur Helton of the Refugee Project of the Lawyers Committee for Human Rights, traveled to Canada to make a comparative analysis of the Canadian and U.S. systems. The delegation included representatives from the U.S. Catholic Conference, Lutheran Immigrant and Refugee Services, the American Bar Association, Amnesty International USA, and Public Counsel. Refugee Reports' Bill Frelick joined the group as a representative of the U.S. Committee for Refugees.

Despite fears that a new law governing the determination of asylum claims within Canada would result in a more restrictive approach towards asylum seekers in Canada, the system--after a year and a half--has produced some of the highest acceptance rates anywhere in the world. However, a backlog of cases that were pending prior to the inauguration of the new law in 1989, plus a growing backlog of applicants who came forward after the new law came into effect, have bogged down the system, causing nongovernmental organizations to protest and the government to explore ways to streamline the process.

"We don't want to take four hours to say yes," said Jerry Robbins, director general of Canada's Immigration and Refugee Board (IRB).

The new refugee determination system involves two steps. An initial hearing determines the applicants' credibility and eligibiilty for refugee status in Canada. The main thrust is to determine whether the claim has a "credible basis." This is based largely on the applicant's country of origin and its human rights record.

An adjudicator from the Canadian Employment and Immigration Commission (CEIC)--the equivalent of the U.S. Immigration and Naturalization Service--and a CRDD member from Canada's Immigration and Refugee Board --which is roughly comparable to the U.S. system of immigration judges under the Executive Office of Immigration Review--must both agree that a claim has no credible basis in order for it to be rejected.

Although Canadian Immigration is represented by a case-presenting officer, in actuality, it overwhelmingly concedes the "credible basis" of the applicants. From September through December 1989, the government did not contest 95 percent of the cases at the initial hearing. In the first six months of 1990, it conceded 92 percent.

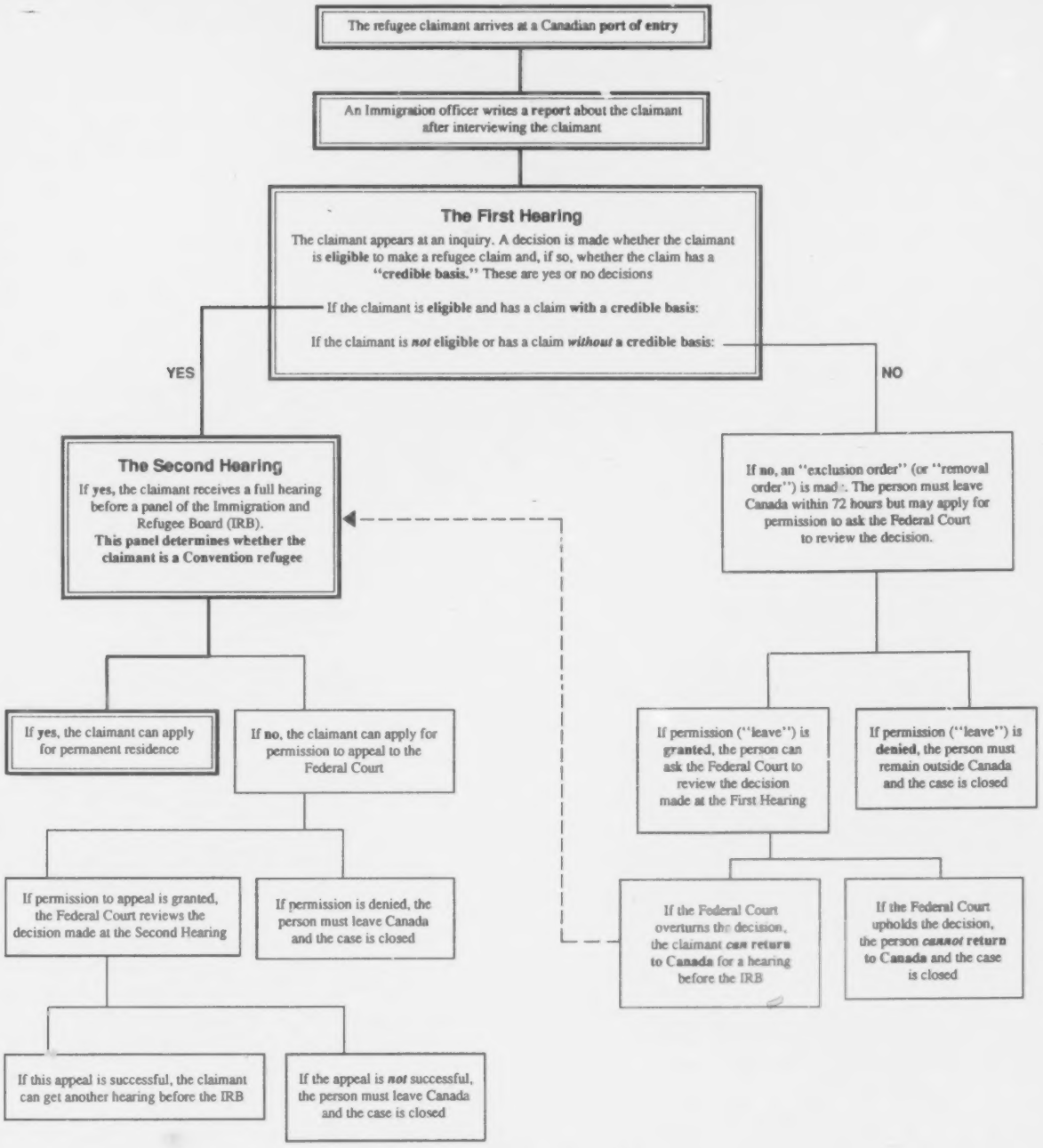
In addition to credibility, the first stage also assesses eligibility. The law's intent had been to deem as ineligible applicants who had resided in "safe third countries." However, the government has not been able to decide what countries should be designated as "safe" (largely as a result of controversy over whether or not the United States would be so designated, given its track record in denying asylum to certain nationalities).

The other grounds for ineligibility, such as resettlement in a third country, criminality, and security threats, have been used in less than 2 percent of the cases.

In the first six months of 1990, 95 percent of claims have been accepted for a second hearing. At the first hearing, an approval rate of 99 percent or more is recorded for applicants from the five nationalities that make up more than half of the total caseload: El Salvador, Iran, Lebanon, Somalia, and Sri Lanka.

At the first hearing, all applicants are eligible for designated legal counsel at government expense.

Convention Refugees: The Determination Process


The refugee claimant arrives at a Canadian port of entry
An Immigration officer writes a report about the claimant after interviewing the claimant
The First Hearing
The claimant appears at an inquiry. A decision is made whether the claimant is eligible to make a refugee claim and, if so, whether the claim has a "credible basis." These are yes or no decisions
If the claimant is eligible and has a claim with a credible basis:
If the claimant is not eligible or has a claim without a credible basis:
YES
NO
The Second Hearing
If yes, the claimant receives a full hearing before a panel of the Immigration and Refugee Board (IRB).
This panel determines whether the claimant is a Convention refugee
If no, an "exclusion order" (or "removal order") is made. The person must leave Canada within 72 hours but may apply for permission to ask the Federal Court to review the decision.
If yes, the claimant can apply for permanent residence
If no, the claimant can apply for permission to appeal to the Federal Court
If permission ("leave") is granted, the person can ask the Federal Court to review the decision made at the First Hearing
If permission ("leave") is denied, the person must remain outside Canada and the case is closed
If permission to appeal is granted, the Federal Court reviews the decision made at the Second Hearing
If permission is denied, the person must leave Canada and the case is closed
If the Federal Court overturns the decision, the claimant can return to Canada for a hearing before the IRB
If the Federal Court upholds the decision, the person cannot return to Canada and the case is closed
If this appeal is successful, the claimant can get another hearing before the IRB
If the appeal is not successful, the person must leave Canada and the case is closed

Note: This chart is a **brief outline only**. It does not describe Canada's refugee determination process *in full*. This process is complicated. If you have a refugee claim, consult a community legal clinic or a lawyer knowledgable about Canadian immigration law.

The process described in this chart applies to people who arrived on or after January 1, 1989 and made their claim on arrival. The process is slightly different for people such as students and visitors who entered Canada with a visa on or after January 1, 1989 and made a refugee claim "in-status."

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Refugee Board Panels Determine Refugee Status At the second stage, a full hearing on the refugee claim itself is held before two-member panels of the CRDD. Legal assistance is generally given to applicants through government-sponsored legal aid programs. At this stage, a Board-appointed "refugee hearing officer" replaces the CEIC's "case-presenting officer," to create a less adversarial proceeding. Some Canadian lawyers complain, however, that the RHOs are often adversarial, engaging in extensive cross-examination of applicants.

A positive decision by one member of the panel is sufficient to grant refugee status, a procedure designed to ensure that the claimant is given the benefit of the doubt.

At this point, Canadian Immigration has no further role, except in unusual circumstances involving constitutional challenges.

"When the Board says 'yes', we fold our cards," said John Butt, director of Protection Policy, Refugee Affairs for Canadian Immigration. He said that the government has only appealed one or two cases.

Though the CRRD hearing rooms look like immigration courts in the United States, the RRD Board Members generally do not resemble their counterpart immigration judges in the United States. A striking number of immigrants themselves serve on the Board. In Toronto, the Board includes four Indian Sikhs, two Guyanese, and immigrants from Sri Lanka (a Tamil), Poland, Lebanon, Jamaica, Trinidad, Ethiopia, and an East African Asian. In fact, one of the Board members in Toronto is not even a Canadian citizen and only three have legal training.

Because Canada does not have an equivalent to the U.S. Board of Immigration Appeals with national jurisdiction, no administrative decision on asylum is binding on any other in the Canadian context. Thus, board members seem less bound by precedent decisions than do immigration judges in the United States.

Cases can be appealed to the federal courts on matters of law, but not on the merits of the claim. Canadian immigration lawyers complain that federal court rulings are often contradictory, even though Canada does not have the conflicting federal circuit system that exists in the United States.

Nongovernmental organizations also charge that allowing appeals only on matters of law is too limiting. The Canadian Council of Churches initially challenged 88 provisions of the refugee law as unconstitutional; the "Charter" challenge is still pending. The churches are especially concerned about the government's removal of denied asylum applicants from Canada after the first hearing pending the outcome of their appeals before the Federal Court.

In the first year of the new system, 88 percent of refugee claims were granted at the full hearing. This high approval rate dipped somewhat to 80 percent in the first three months of 1990, and dipped further to 75 percent in the second quarter of 1990. The main reason for the decrease appears to be significantly higher rejections for applicants from Eastern Europe, following the political changes that have occurred there. In 1989, East Europeans were granted asylum 76 percent of the time. By the second quarter of 1990, the approval rate for East Europeans had dropped to 16 percent.

Approval Rates for Selected Nationalities
Canada, January-June 1990

Nationality	First Hearing	Second Hearing
El Salvador	99%	77%
Iran	99%	91%
Lebanon	99%	72%
Somalia	100%	94%
Sri Lanka	99%	90%

Backlogs, Old and New The 1989 law was passed in response to a huge existing backlog, but regulations concerning the backlog were not published for eight months after the bill came into effect. Instead, the government seemed most intent on applying the statutes to new cases, not the backlog. As a result, a person who arrived on January 2, 1989 would have been processed shortly thereafter, and, if accepted, by now would have been joined by family and out of danger. However, someone who arrived from the same country and in the same circumstances a few days earlier still would not have been called for a preliminary interview, his family would be barred from joining him, and his fate would be uncertain.

The Canadian Inter-Church Committee for Refugees (ICCR) submitted a brief this month

to the UN Committee for Human Rights, charging that Canada's asylum determination system subjects asylum seekers to "cruel, inhuman, and degrading treatment."

Of particular concern to the ICCR are about 85,000 cases in the backlog that has existed from before the time the new asylum system came into place in 1989.

"Almost all of the claimants have now been in Canada for two years," said the brief, "many for four or more, and almost none have come out of the end of the tunnel."

By the end of July 1990, less than 20,000 cases from the backlog had been completed. Of these, 16,179 had been accepted in principle and were in the process of being "landed" (given permanent resident status), 447 had been landed, 608 had been rejected, and 100 removed (another 2,325 departed voluntarily).

The brief charges that the system discriminates against the earlier claimants, because those who arrived after the new law came into effect move through the system more quickly. "The system of delays, inadequate scheduling practices, and other poor administrative procedures...are real ways of denying the backlog claimants equal access."

To address this problem, the government has hired 50 additional members of its Convention Refugee Determination Division (CRDD) board to deal specifically with the "old" backlog (in addition to about 200 regular Board members). On September 13, B.A. Dougall, director of the backlog clearance program, introduced a new process in which claimants will provide written details of their case. These will be screened prior to an interview, so that stronger cases will move through the system more quickly.

Applicants from the backlog need only establish a low threshold "credible basis" of concern test in order to be landed; they do not need to establish that they are refugees. Those rejected may also appeal their removal on "humanitarian and compassionate" grounds to the Minister of Employment and Immigration (an option also open to more recent applicants).

Of growing concern, however, is the "new" backlog numbering more than 27,000 that has built up from those who arrived after January 1, 1989. Because the Canadians do not again want to dig themselves into a hole like the one that preceded the 1989 law, the Immigration and Refugee Board (IRB) is also moving to streamline the process for the new applicants who appear to have strong claims.

A pilot project in Vancouver and Toronto is testing a determination process based on a paper record, similar to one recently suggested for the backlog cases. This paper screening should expedite the process for the overwhelming majority of cases (about 90 percent) that the government does not contest in the first "credible basis" stage of the procedure. For the second stage--in which refugee status is determined--Robbins said that he would like to see a fast track for claims from the top five refugee-producing countries. Strong claims would go before a single CRRD Board member for quick approval.

Documentation Center One aspect of the Canadian system that has generated much interest in the United States is its documentation center, which collects human rights information related to the determination of asylum claims, as well as abstracts and texts of previous Board and court decisions. In fact, the new U.S. asylum regulations cite the Canadian system favorably, and create a documentation center within the INS modeled on the Canadian one.

"From the start, we intended to serve all parties within the determination system," said Graham Howell, the director of the center. The central documentation center in Ottawa and its five branch offices are open to the public, but priority is given to requests for information directly related to the refugee determination process.

Because of the volume of requests, however, the centers have had to scale back their responses. Said a prominent immigration attorney, Barbara Jackman, "The documentation center is very good, but now it is not responding to individual inquiries from attorneys."

You Can Lead a Horse to Water... Documentation provided by the center seemed to play little role in the hearings we observed. In one case involving a national from the People's Republic of China, the hearing officer presented the Board members with nothing more than a bibliography listing 25 sources on China. No effort had been made to fine

tune the information to the specific case or to highlight information that might be relevant.

Another knowledgeable source praised the documentation center as "the best there is," but said, "The Board doesn't use it that much."

Update

° On September 27, The U.S. Border Patrol raided Casa Oscar Romero, a Roman Catholic shelter near Brownsville, Texas. Silvestre Reyes, the chief patrol agent for the McAllen sector, said that the raid was prompted by "national security" concerns, and that agents were particularly looking for Indian Sikhs, according to a report in the Laredo Morning Star. A total of 35 people were arrested, 5 of whom were Indians. The others were 6 Hondurans, 4 Guyanese, 2 Salvadorans, a Guatemalan, and 15 "allegedly" Mexican.

Sister Norma Pimental, the shelter director, said she could not recall the camp ever having been raided before.

° In an unusual move, the Board of Immigration Appeals has requested the Attorney General to review two recent cases in which it denied asylum to Salvadorans alleging persecution arising from civil war. These cases, Matter of Aguilar and Matter of Pleitez, bear striking similarities to earlier BIA decisions that have been overturned in the Ninth Circuit Court of Appeals (see Refugee Reports, Vol. IX, No. 11 and Vol. X, No. 11). The BIA memorandum to Attorney General Dick Thornburgh said, "A definitive interpretation is necessary in view of the frequency of aliens' claims involving the issues presented and the number of adverse decisions by the U.S. Court of Appeals for the Ninth Circuit in review of Board decisions that address these issues."

° On October 1, seven Haitian human rights and refugee organizations--based in Haiti as well as the United States--submitted a petition to the Organization of American States (OAS) charging that the Haitian Migrant Interdiction Program violates international law. Among other things, the petition calls upon the OAS to declare that the Haitian Migrant Interdiction Program constitutes a serious violation of Articles 27 (the right to asylum), 24 (the right to petition), and 18 (to to effective remedy) of the American Declaration of the Rights and Duties of Man. It also seeks to require the U.S. government to terminate the interdiction program "inasmuch as it constitutes a violation of internationally recognized human rights binding on the United States."

Feature

TIBETAN REFUGEES IN NEPAL: NUMBER FLEEING TIBET INCREASES; 43 FORCED BACK AT BORDER

[In August, Refugee Reports staff writer Hiram A. Ruiz was in Nepal and Tibet. He visited Tibetan refugee sites in Nepal, met with Tibetan leaders and interviewed newly arrived Tibetan refugees there, and met with officials in the Kathmandu office of the UN High Commissioner for Refugees (UNHCR). This report is based in part on that visit]

Nepalese border guards forcibly returned 43 Tibetan refugees on August 7 who had recently fled from Tibet to Nepal. Following their return, the refugees were jailed by the Chinese authorities in Gutsa prison, Lhasa, Tibet.

Since the beginning of August, more than 300 other Tibetans have fled to Nepal and made their way safely to Kathmandu, the Nepalese capital. Some have remained in Nepal and are being assisted by leaders of the established Tibetan refugee community, while others have proceeded to India, where most Tibetan refugees live.

Forced Return Protested In an October 3 letter to the Nepalese Ambassador to the United States, Roger P. Winter, director of the U.S. Committee for Refugees (USCR), expressed "profound concern" over the refugees' forced return, and asked the Nepalese government "to move decisively to prevent further forced returns of refugees to a country where their lives or freedom could be threatened."

An estimated 14,000 Tibetan refugees currently live in Nepal. They are among more than 100,000 Tibetans--most of them now living in India--who, following the lead of the Dalai Lama, fled their homeland

Newly arrived Tibetan refugees in Nepal. *USCR/H. Ruiz*

in 1959. At that time, repression by the Chinese authorities, who had invaded and occupied Tibet in 1950, increased substantially following mass uprisings against Chinese rule.

After 1959, the outflow of refugees came to a virtual halt. But during the past decade, several hundred Tibetans per year have evaded Chinese border guards and fled to Nepal or India. Some who tried never made it, while others were forcibly returned. For example, in June 1989, the Calcutta Statesman reported that seven Tibetans were killed by Chinese security forces while trying to cross into India. In September 1988, Nepalese border guards reportedly handed over 26 Tibetan asylum seekers to the Chinese authorities.

Nearly Half of New Arrivals Are Monks and Nuns The influx of Tibetan refugees into Nepal that began in August came after the lifting of martial law in Tibet on May 1, making it easier for Tibetans to move within the country. Also, at about the same time they lifted martial law, the Chinese authorities forced a number of monks and nuns who were suspected of being pro-independence to leave their monasteries and convents. According to the International Herald Tribune, "Monks and nuns not detained or questioned were escorted back to their home villages, handed over to the local authorities, and told not to practice religion."

These events were confirmed in two interviews conducted in Nepal by Refugee Reports with monks who had recently fled Tibet. Gyaltsen, a 27-year-old from Ganden monastery, joined the March 1989 pro-independence demonstrations. When he returned to the monastery, the Chinese official stationed there turned Gyaltsen in to the police, and he was jailed in Gutsa prison, near Lhasa. Gyaltsen said that 17 other Buddhist monks from Ganden were also imprisoned there. After his release, Gyaltsen was told he would never again be allowed to re-enter the monastery. He was sent back to his home village, where he was not allowed to work and had to depend on his family for food. At that point, Gyaltsen decided to flee Tibet. "Even if I got killed trying," he told Refugee Reports, "it would be better."

Another monk interviewed, a 23-year-old

also from Ganden, told Refugee Reports that he was expelled from his monastery when it was learned that he had raised a Tibetan flag. He too was banned from the monastery and sent back to his village. Wishing to continue active religious life, he fled to Nepal.

According to the UNHCR office in Nepal, approximately half of the more than 300 refugees who have arrived in Kathmandu since August are monks or nuns. Among the 43 refugees returned on August 7, there were 27 monks and 6 nuns.

Deaths, Arrests, Follow Pro-Independence Demonstrations The Chinese authorities imposed martial law in Tibet in March 1989, following the largest and most violent of the estimated 30 pro-independence demonstrations by Tibetans in the past three years. Thousands of Tibetans were reportedly arrested during the 14 months martial law was in effect in Tibet.

According to a May 1990 report by Asia Watch, Merciless Repression: Human Rights in Tibet, in response to these demonstrations, "repressive measures by Chinese authorities have become increasingly drastic and repressive."

"Pro-independence demonstrations," the report said, "have largely begun nonviolently, and the degeneration into violence has generally been precipitated by overt violence on the part of the [Chinese] authorities."

Although the Chinese authorities claim that only 16 people were killed during the three-day March 1989 uprising, other sources report that anywhere between 60 and 450 Tibetans--including a number of Buddhist monks and nuns--were killed. An English-speaking Tibetan man interviewed in Lhasa said that his brother, a monk, was among those killed during the March demonstrations. Since then, he has been awaiting an opportunity to flee the country. One of the refugee monks Refugee Reports spoke with in Nepal said that a fellow monk from Ganden monastery with whom he had gone to the demonstrations was shot but survived.

Torture Although the People's Republic of China (PRC) ratified the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1988, some of those imprisoned were also tortured. According to a November 1989 report by Physicians for Human Rights, The Suppression of a People: Accounts of Torture and Imprisonment in Tibet, "Torture of Tibetan political prisoners is routine." The report says that prisoners "are beaten with gun butts, truncheons and clubs with nails driven through the ends.... Other forms of torture include hanging prisoners by their wrists, ankles, or thumbs for periods of hours or even days.... Imprisoned nuns have been violated...with electric cattle prods." One of the newly arrived Tibetan refugees interviewed in Nepal told Refugee Reports, "They kicked me in the stomach and hit me in the shoulders and on my back with a stick. At night, although it was cold, they made me take off my clothes and stand naked in the courtyard."

According to a February 1989 Amnesty International report, "Torture and ill-treatment appear to have been particularly frequent at...'Gutsa Prison,' where many of those detained after the 5 March [1989] demonstrations were held." Gutsa is the same prison in which the refugees who were forcibly repatriated from Nepal in August were imprisoned by the Chinese authorities.

New Arrivals Present Thorny Problem The new influx of Tibetan refugees presents problems for the Nepalese government. Nepal is not a signatory to the UN Convention and Protocol Relating to the Status of Refugees, and also has no statutes on its books that relate to the recognition or treatment of refugees. Nevertheless, Nepal has traditionally allowed Tibetan refugees to remain in Nepal safely. But Nepal's geo-political concerns impinge upon its treatment of refugees.

Sandwiched between India and the Chinese in Tibet, Nepal tries to maintain friendly relations with both of its large, powerful neighbors. It does not want to be seen to support or encourage a new outflow of Tibetan refugees, since the exodus of refugees is embarrassing to the Chinese. (An even thornier problem for Nepal is the presence of a small group of Chinese refugees who fled to Nepal in the months following the Tiananmen Square massacre and subsequent clampdown on the pro-democracy movement in China.)

A new government pledged to democratic

reform and improved human rights came into power in Nepal in April, following widespread pro-democracy demonstrations--during which dozens were killed--in that country as well. The new government has shown a willingness to draft legislation that would spell out protections for refugees, but has not yet done so. Meanwhile, Nepal is faced with conflicting political objectives of maintaining friendly relations with China and being seen to respect human rights. This may account for the disparity in the way newly arrived Tibetan refugees have been treated; the majority are allowed to reach Kathmandu safely, but a smaller number are forcibly returned.

The office of the representative of the Dalai Lama in Nepal, which operates a welfare center for Tibetan refugees, is also in a delicate position. His office must be careful not to be perceived by the Nepalese government as in any way encouraging refugee flows, since that would jeopardize its position vis-a-vis the Nepalese government.

Established Refugees Economically Well-Integrated While many problems and concerns surround the newly arrived refugees, the estimated 14,000 Tibetans who for the most part have been living in Nepal since 1959 are generally doing quite well.

According to Paljor Tsering, representative of the Dalai Lama in Nepal, the main problem faced by the established refugee population is their lack of status or proper identification papers. In 1963, Tibetan refugees who were 18 years of age or older were registered and issued identification cards (although Tsering says many refugees avoided registration out of fear). Since then, however, there have not been any further registrations, and a whole generation of Tibetans, mostly born in Nepal--but not Nepali citizens--remain unregistered.

Many refugees have become involved in the Tibetan carpet-making industry, which has flourished in recent years and brought prosperity--or at least a reasonable livelihood--to many refugees. Still, in an interview at the Tibetan carpet factory in the Jawalakhel refugee camp near Kathmandu, a 49-year-old woman who was 18 when she fled Tibet, said that while she and her family get by financially, she misses the independence they had in Tibet, where they lived off the land. "Here, we work for others," she said. "In Tibet, we worked for ourselves."

Job Openings

We have received more announcements for job openings than we have space to print. Abbreviated descriptions follow:

° INS asylum adjudication officers located around the United States for its new adjudication corps. Jobs will be in INS offices in Newark, NJ (8 openings); Arlington, VA (7); Miami, FL (25); Chicago, IL (4); Houston, TX (7); Los Angeles, CA (25); San Diego, CA (2); San Francisco, CA (8).

Contact appropriate INS Regional Personnel Officer: Eastern Regional Office, Federal Bldg., 11 Elmwood Ave., Burlington, VT 05401; Northern Regional Office, Rm. 401, Federal Bldg., Ft. Snelling, Twin Cities, MN 55111; Southern Regional Office, 7701 N. Stemmons Freeway, Dallas, TX 75247, ATTN: ROHRS; Western Regional Office, 24000 Avila Road, P.O. 30080, Laguna Niguel, CA 92677-8080.

° Staff Attorney, El Rescate Legal Services, Los Angeles, California. Contact: Elizabeth J. Cooper, Esq. (213) 387-3284.

° Program and Resource Development Specialist, Ethiopian Community Development Council, Arlington, VA. Contact: Tesehaye Teferra (703) 685-0529.

° Human Rights Program Officer, Carter Center of Emory University, Atlanta, Georgia. Contact: Daniel J. Socolow (404) 420-5151.

° Executive Director, Northwest Immigrant Legal Services Program (a project of the Washington Association of Churches' Immigration and Refugee Program), Seattle, Washington. Contact: Washington Immigration Project (206) 443-9229.

° Staff Attorney, Paralegal, American Immigration Lawyers Association's South Florida Chapter, Miami Florida. Contact: Maria R. Dominguez, Directing Attorney, (305) 576-0080.

SUMMARY OF REFUGEE ADMISSIONS
Fiscal Ye[illegible]90, As of August 31

COUNTRY OF CHARGEABILITY	FY90 REFUGEE ADMISSIONS CEILING	FY TOTAL ADMITTED INTO U.S. AS OF AUG.
AFRICA*	3,500	
Angola		59
Benin		10
Ethiopia		2,856
Ghana		11
South Africa		24
Uganda		27
Zaire		59
TOTAL AFRICA	3,500	3,070
EAST ASIA-1ST ASYL	25,000	
Cambodia		1,992
China (Mainland)		51
Laos		
Highland		4,462
Lowland		2,857
Subtotal Laos		7,319
Vietnam		11,928
TOTAL 1ST ASYLUM	25,000	21,292
ODP	26,800	
Amerasian Immigrant		10,437
Refugee		11,320
TOTAL ODP	26,800	21,757
EASTERN EUROPE	6,200	
Albania		76
Bulgaria		303
Czechoslovakia		340
Hungary		274
Poland		1,417
Romania		3,247
TOTAL EASTERN EUROPE	6,200	5,663
SOVIET UNION	52,100	
Direct		3,050
Non-Direct		46,395
TOTAL SOVIET UNION	52,100	49,445
LATIN AMERICA	2,400	
Cuba		1,065
El Salvador		22
Nicaragua		518
TOTAL LATIN AMERICA	2,400	1,610
NEAR EAST/SOUTH ASIA	5,000	
Afghanistan		1,314
Iran		3,199
Iraq		53
TOTAL NEAR EAST/SOUTH	5,000	4,567
PRIVATE SECTOR INIT.	4,000	
PSI CUBANS		1,549
TOTAL PSI	4,000	1,549
GRAND TOTAL	125,000	108,953

* Footnote: The following countries with totals of less than 10 are also included: Africa: Burundi 3, Cameroon 3, Chad 1, Liberia 3, Mozambique 1, Somalia 8, Sudan 5; East Asia: Burma 2; Eastern Europe: Yugoslavia 6; Latin America: Argentina 2, Peru 3; Near East/South Asia: Libya 1.

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